

Message Text

LIMITED OFFICIAL USE

PAGE 01 STATE 176331
ORIGIN SS-25

INFO OCT-01 ISO-00 SSO-00 /026 R

DRAFTED BY L:GHALDRICH:MAB
APPROVED BY IO:GADALLEY
S/S: AWOTTO
P:GMOOSE

-----104176 280153Z /65

R 272302Z JUL 77
FM SECSTATE WASHDC
TO USMISSION GENEVA

LIMITED OFFICIAL USE STATE 176331

EXDIS, FOR SCHWEBEL FROM ALDRICH

E.O. 11652: N/A

TAGS: ILO

SUBJECT: L OPINION ON SUSPENSION OF ILO MEMBERSHIP BY
FAILURE TO PAY ASSESSMENTS

IN RESPONSE TO YOUR TELEPHONIC REQUEST, THE FOLLOWING IS
THE SUBSTANCE OF L/UNA'S OPINION ON THE FEASIBILITY OF
SUSPENDING OUR ILO MEMBERSHIP BY MEANS OF NONPAYMENT OF
DUES: -

QUOTE IN OUR OPINION, IT IS HIGHLY QUESTIONABLE WHETHER WE
COULD SUSPEND OUR NOTICE OF INTENT TO WITHDRAW BY FAILING
TO SATISFY OUR OUTSTANDING FINANCIAL OBLIGATIONS.
ARTICLE 1(5) OF THE CONSTITUTION OF THE ILO PROVIDES
(QUOTED). THIS LANGUAGE INDICATES THAT WITHDRAWAL CANNOT
BE EFFECTED UNTIL ALL ASSESSMENTS HAVE BEEN PAID AND THAT
WITHDRAWAL WOULD BECOME EFFECTIVE WHEN THE AMOUNTS WERE
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 STATE 176331

PAID SUBSEQUENT TO THE 2-YEAR NOTICE.

HOWEVER, THIS LITERAL READING HAS NOT BEEN FOLLOWED IN
PRACTICE. INSTEAD, THE PRACTICE OF THE ILO HAS BEEN TO
TREAT THE NOTICE AS EFFECTIVE WHEN THE 2-YEAR PERIOD
ELAPSED, REGARDLESS OF WHETHER ALL FINANCIAL OBLIGATIONS
HAD BEEN SATISFIED. FOR EXAMPLE, WHEN SOUTH AFRICA

INFORMED THE ILO OF ITS WITHDRAWAL, IT FAILED TO PAY ITS

OUTSTANDING DEBTS AND FAILED TO GIVE 2-YEAR NOTICE. NEVERTHELESS, WHEN TWO YEARS HAD PASSED FROM THE DATE OF THE ATTEMPTED WITHDRAWAL, THE ILO TERMINATED THE MEMBERSHIP. IT CONTINUES TO LIST SOUTH AFRICA AS OWING THE ILO MONEY, BUT NOT AS A MEMBER. IN FACT, THE ILO WAS AWARE THAT THE LITERAL INTERPRETATION WAS NOT BEING FOLLOWED AS LONG AGO AS 1947. AT THAT TIME, WHEN THE ILO WAS BEING CONVERTED FROM A PART OF THE LEAGUE OF NATIONS TO AN AGENCY OF THE UNITED NATIONS, A REPORT WAS DONE ON THE ILO CONSTITUTION. THAT REPORT NOTED THAT ALTHOUGH ARTICLE 1(5) EXPRESSLY REQUIRED 2-YEAR NOTICE AND PAYMENT OF OUTSTANDING OBLIGATIONS, ONLY THE FORMER HAD BEEN FOLLOWED IN PRACTICE.

FURTHER, THE INTERPRETATION GIVEN BY PRACTICE IS BETTER SUITED TO THE PURPOSE OF THE WITHDRAWAL ARTICLE. THE 2-YEAR NOTICE PERIOD WAS INTENDED TO GIVE THE ORGANIZATION SUFFICIENT TIME TO PREPARE ITSELF FOR THE FINANCIAL IMPLICATIONS OF THE WITHDRAWAL OF A STATE. THE INTERPRETATION OF THE ARTICLE AND THE COURSE OF ACTION PROPOSED BY THE MISSION IN GENEVA WOULD UNDERMINE THIS BY ALLOWING THE MEMBER TO EFFECT WITHDRAWAL AT ANY TIME BY PAYING ITS ASSESSMENT. THE ORGANIZATION WOULD NOT KNOW WHETHER OR NOT THE STATE WOULD BE A MEMBER IN LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 03 STATE 176331

THE FOLLOWING BUDGET PERIOD.

IT HAS BEEN SUGGESTED THAT THE ILO LEGAL COUNSEL WOULD BE WILLING TO SUPPORT THE CONCLUSION THAT FAILURE TO SATISFY OUTSTANDING DEBTS PREVENT WITHDRAWAL. QUITE APART FROM THE UNSEEMLY NATURE OF RETAINING OUR MEMBERSHIP ONLY BECAUSE WE REFUSED TO PAY AN ACKNOWLEDGED DEBT, SUPPORT FROM THE ILO LEGAL COUNSEL MIGHT NOT BE EFFECTIVE. IT WOULD BE OPEN TO THE INTERNATIONAL LABOR CONFERENCE TO CHALLENGE THE RULING OF THE LEGAL COUNSEL AND DROP THE UNITED STATES FROM MEMBERSHIP LISTS. IT WOULD ALSO BE OPEN TO ANY MEMBER OF THE ILO TO RAISE THE QUESTION IN A PROCEEDING BEFORE THE INTERNATIONAL COURT OF JUSTICE UNQUOTE.

DECONTROLLED FOLLOWING JANUARY 1, 1978. VANCE

LIMITED OFFICIAL USE

NNN

Message Attributes

Automatic Decaptioning: Z
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: MEMBERSHIP, FUND ALLOTMENT, INTERNATIONAL LABOR ORGANIZATIONS, US CONGRESSIONAL HEARINGS
Control Number: n/a
Copy: SINGLE
Sent Date: 27-Jul-1977 12:00:00 am
Decaption Date: 22 May 2009
Decaption Note: 25 YEAR REVIEW
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1977STATE176331
Document Source: CORE
Document Unique ID: 00
Drafter: GHALDRICH:MAB
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D770269-0915
Format: TEL
From: STATE
Handling Restrictions:
Image Path:
ISecure: 1
Legacy Key: link1977/newtext/t19770712/aaaaakeb.tel
Line Count: 110
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: e7fef662-c288-dd11-92da-001cc4696bcc
Office: ORIGIN SS
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: EXDIS
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: EXDIS
Reference: n/a
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 10-Mar-2005 12:00:00 am
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 1730157
Secure: OPEN
Status: NATIVE
Subject: L OPINION ON SUSPENSION OF ILO MEMBERSHIP BY FAILURE TO PAY ASSESSMENTS IN RESPONSE TO YOUR TELEPHONIC REQUEST, THE FOLLOW
TAGS: ELAB, PORG, US, ILO
To: GENEVA
Type: TE
vdkgvwkey: odbcc://SAS/SAS.dbo.SAS_Docs/e7fef662-c288-dd11-92da-001cc4696bcc
Review Markings:
Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
22 May 2009
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009